

Atty. Docket No.: 74120-301394
Serial No.: 09/855,156

REMARKS

The Applicant respectfully requests reconsideration of this application as amended. Claim 14 has been amended. No claims have been cancelled. Therefore, claims 1-15 are present for examination.

CLAIM OBJECTIONS

In the Office action, the Examiner objected to claim 14 because of informalities. Claim 14 has been amended to correct the informalities. Therefore, for at least this reason, Applicant respectfully requests the Examiner to withdraw the claim objections.

35 U.S.C. § 103 REJECTIONS

In the Office action, the Examiner rejected claims 1-3, 7-13, and 15 under 35 U.S.C. § 103(a) as being unpatentable over Connor (U.S. Patent No. 6,477,492) in view of Sand (U.S. Patent No. 6,512,746); claims 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Connor and Sand and in further view of Applicant's purportedly admitted prior art; and claims 6 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Connor in view of Sand in further view of Celi (U.S. Patent No. 6,876,647).

Rejection of Claims 1, 10, 13, and 15 Under 35 U.S.C. § 103(a)

Claim 1 recites, *inter alia*, "enabling a communications device connected to the VOIP network to answer a test call received over the VOIP network by playing a voice file." Claim 10 recites, *inter alia*, "enabling communications devices connected to the VOIP network to answer test calls received over the VOIP network by playing embedded voice files." Claim 13 recites, *inter alia*, "enable a communications device connected to the VOIP network to answer a test call received over the VOIP network by playing a voice file." Claim 15 recites, *inter alia*, "a step for answering the test call by playing a voice file with the communications device."

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"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." *MPEP* § 2143. Neither Connor, nor Sand, nor the combination of Connor and Sand, discloses, teaches, or suggests at least one element of claims 1, 10, 13, and 15, namely, answering a test call or test calls by playing a voice file or embedded voice files.

Instead, Connor discloses dialing a VRS system 12 (Connor - step 64 of FIG. 6), then generating DTMF tones 44 (Connor - step 66 of FIG. 6), and then recording received voice prompts (Connor - step 68 of FIG. 6). As discussed at column 5, lines 14-25 of Connor, voice prompts are received in response to DTMF tones generated external to the VRS system 12; therefore, Connor teaches, at most, recording and measuring voice prompts generated in response to DTMF tones, not in response to the mere placement of a test call. In other words, VRS system 12 of Connor does not answer a test call by playing a voice file; instead, VRS system 12 requires prompting of some kind (i.e. DTMF tones) in order to begin relaying voice signals that will be recorded and measured. Connor teaches a significant intervening step (step 66 of FIG. 6) prior to the playing of the voice file to be recorded. For at least this reason, Connor does not teach, disclose, or suggest at least "enabling a communications device connected to the VOIP network to answer a test call received over the VOIP network by playing a voice file."

Applicant respectfully points out that the apparently quoted language of paragraph 3, lines 5-7 of the Office Action of June 29, 2005 is not found in the Connor disclosure, but instead appears to have been copied from the language of Applicant's claim 10 and improperly attributed to Connor. As described above, Connor fails to teach, disclose, or suggest at least such an element of claims 1, 10, 13, and 15, namely, "answer[ing] test calls received over the VOIP network by playing embedded voice files."

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As discussed in the previous office action, Applicant respectfully points out that Sand also does not disclose, teach, or suggest such an element of claims 1, 10, 13, and 15, including at least the above-discussed limitations. For example, Sand does not disclose, teach, or suggest answering a test call by playing a voice file. Sand instead discloses a "non-intrusive measuring method" (col. 2, lines 19-20) which employs an IP Telephony Measurement Device 32 for already existing or ongoing communications between terminal endpoints 20 or 38 (see FIGS. 2 and 3 of Sand). Therefore, particularly because Sand discloses a "non-intrusive" measurement for existing phone calls or communications, Sand does not disclose, teach, or suggest at least "enabling a communications device connected to the VOIP network to answer a test call received over the VOIP network by playing a voice file."

For at least the aforementioned reasons, Connor and Sand, either individually or in combination, fail to disclose, teach, or suggest at least one limitation of each of claims 1, 10, 13, or 15. Connor and Sand fail to establish a *prima facie* case of obviousness, because they fail to "teach or suggest all the claim limitations" of claims 1, 10, 13, and 15. *See MPEP* § 2143. Therefore, claims 1, 10, 13, and 15 are believed to be in condition for allowance, for at least the reasons described above. Claims 2-9 properly depend from allowable claim 1, and claims 11 and 12 properly depend from allowable claim 10. For at least these reasons, claims 1-13 and 15 are believed to be in condition for allowance, such being respectfully requested herein.

Rejection of Claim 14 Under 35 U.S.C. § 103(a)

Claim 14 provides, *inter alia*, "an Interactive Voice Response (IVR) unit operable, responsive to receipt of a test call over the VOIP network by a VOIP gateway associated with the IVR unit, to answer the test call by playing an embedded voice file..."

Applicant respectfully points out that the apparently quoted language of page 6, lines 10-12 of the Office Action of June 29, 2005 is not found in the Connor disclosure, but instead appears to have been copied from the language of Applicant's claim 14 and improperly attributed to Connor. As described above in relation to claims 1, 10, 13, and 15, Connor fails to teach, disclose, or suggest at least such an element of claim 14, namely, "answer[ing] the test call by

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playing an embedded voice file." Also as described above in relation to claims 1, 10, 13, and 15, Sand also fails to disclose at least such an element of claim 14.

Furthermore, Celi also fails to disclose, teach, or suggest at least this element of claim 14. Instead, Celi discloses "an enhanced method and system for streaming audio data to and from voice call end points in a voice call processing system." (Celi col. 2, lines 24-26). Although Celi discloses that "pre-recorded audio can include pre-recorded audio prompts for use in an interactive voice response system," (Celi col. 6, lines 2-4), Celi does not disclose using audio prompts to measure "voice listening quality of the test calls," or answering a test call by playing audio. In fact, the Celi reference has little, if any, relevance to claim 14 of the present application. For example, because Celi does not even disclose, teach, or suggest to "answer a call," Celi cannot disclose, teach, or suggest to "answer the test call by playing an embedded voice file." For at least these reasons, Celi does not disclose, teach, or suggest, at least "answer[ing] the test call by playing an embedded voice file."

For at least the aforementioned reasons, Connor, Sand, and Celi, either individually or in combination, fail to disclose, teach, or suggest at least one element of claim 14. Connor, Sand, and Celi fail to establish a *prima facie* case of obviousness, because they fail to "teach or suggest all the claim limitations" of claim 14. See MPEP § 2143. Therefore, claim 14 is believed to be in condition for allowance, such being respectfully requested herein.

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CONCLUSION

The Applicant respectfully submits that the rejections have been overcome by the amendment and remarks, and that the remaining pending claims are in condition for allowance. Accordingly, the Applicant respectfully requests that the rejections be withdrawn and that a Notice of Allowance be issued for claims 1-15.

INVITATION FOR A TELEPHONE INTERVIEW

The Examiner is requested to call the undersigned at (303) 607-3709 if there remains any issue with allowance of the case.

CHARGE OUR DEPOSIT ACCOUNT

No fee is believed to be due for the entry of this paper. However, please charge any shortage to our Deposit Account No. 06-0029.

Respectfully submitted,

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Date: September 20, 2005

By:



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DNVR1:50316397.01